

1  
2  
3  
4 UNITED STATES DISTRICT COURT  
5 DISTRICT OF NEVADA

6 \* \* \*

7 GREGORY WEST ENTSMINGER,

Case No. 3:16-cv-00555-MMD-WGC

8 Plaintiff,

ORDER

9 v.

10 ROMEO ARANAS, *et al.*,

11 Defendants.

12  
13 **I. SUMMARY**

14 Before the Court is the Report and Recommendation of United States Magistrate  
15 Judge William G. Cobb (ECF No. 120) ("R&R"), recommending denial of Plaintiff's  
16 emergency motion for temporary restraining order (the "Motion") (ECF No. 118). Plaintiff  
17 filed an objection to the R&R ("Objection").<sup>1</sup> (ECF No. 122.) As discussed further below,  
18 the Court agrees with Judge Cobb's reasoning and adopts the R&R in full.

19 **II. DISCUSSION**

20 This Court "may accept, reject, or modify, in whole or in part, the findings or  
21 recommendations made by the magistrate judge." 28 U.S.C. § 636(b)(1). Where a party  
22 timely objects to a magistrate judge's report and recommendation, then the court is  
23 required to "make a *de novo* determination of those portions of the [report and  
24 recommendation] to which objection is made." 28 U.S.C. § 636(b)(1). Where a party fails  
25 to object, however, the court is not required to conduct "any review at all . . . of any issue  
26 that is not the subject of an objection." *Thomas v. Arn*, 474 U.S. 140, 149 (1985); *see also*

27  
28  

---

1The Court has also reviewed Defendants' response (ECF No. 134).

1 *United States v. Reyna-Tapia*, 328 F.3d 1114 (9th Cir. 2003) (disregarding the standard  
2 of review employed by the district court when reviewing a report and recommendation to  
3 which no objections were made); Fed. R. Civ. P. 72, Advisory Committee Notes (1983)  
4 (providing that the court “need only satisfy itself that there is no clear error on the face of  
5 the record in order to accept the recommendation”).

6 In light of Plaintiff’s objection to the R&R, this Court has engaged in a *de novo*  
7 review to determine whether to adopt the R&R. Plaintiff’s Motion requests an order that  
8 maintains the status quo with respect to his housing, his legal and personal property, his  
9 classification status, and his job assignment. (ECF No. 118 at 1.) Judge Cobb found that  
10 the requested relief is ancillary to the claims in Plaintiff’s Complaint (ECF No. 120 at 2),  
11 which the Court agrees. Accordingly, Judge Cobb recommended denying the Motion  
12 because Plaintiff has not demonstrated the requisite “nexus between claims raised in the  
13 motion and the claims set forth in the underlying complaint itself.” (ECF No. 120 at 3 (citing  
14 to *Pac. Radiation Oncology, LLC v. Queen’s Med. Ctr.*, 810 F.3d 631, 636 (9th Cir. 2015).)  
15 Plaintiff objects that there is sufficient nexus because the Motion seeks “to prevent ongoing  
16 retaliation for the First Amendment activities.” (ECF No. 122 at 4.) But Plaintiff’s argument  
17 is too broad to sufficiently demonstrate the requisite nexus to (1) his First Amendment  
18 claim that prison officials opened his legal mail, or (2) his retaliation claim that certain  
19 defendants refused to provide Plaintiff dental treatment because he filed a grievance. (See  
20 ECF No. 21 at 20.) Moreover, the Court finds that Plaintiff provides no evidence of such  
21 nexus. Plaintiff also attempts to distinguish his case from *Pacific Radiation Oncology, LLC*  
22 *v. Queen’s Medical Center*, 810 F.3d 631 (9th Cir. 2015) (ECF No. 122 at 4), but the Ninth  
23 Circuit has recently applied that legal standard to the context of a prisoner’s civil rights  
24 action. See *Friedman v. Woods*, 787 F. App’x 966 (9th Cir. 2019) (affirming denial of a  
25 preliminary injunction where prisoner failed to establish a relationship between the

26 ///

27 ///

28 ///

1 requested injunctive relief and the underlying retaliation claims in the complaint).<sup>2</sup>  
2 Accordingly, the Court will deny the Motion.

3 **III. CONCLUSION**

4 The Court notes that Plaintiff made several arguments and cited to several cases  
5 not discussed above. The Court has reviewed these arguments and cases and determines  
6 that they do not warrant discussion as they do not affect the outcome of the Motion before  
7 the Court.

8 It is therefore ordered, adjudged and decreed that the Report and Recommendation  
9 of Magistrate Judge William G. Cobb (ECF No. 120) is accepted and adopted in its  
10 entirety.

11 It is ordered that Plaintiff's emergency motion for temporary restraining order (ECF  
12 No. 118) is denied.

13  
14 DATED THIS 27<sup>th</sup> day of January 2020.

15  
16   
17 \_\_\_\_\_  
18 MIRANDA M. DU  
19 CHIEF UNITED STATES DISTRICT JUDGE  
20  
21  
22  
23  
24  
25  
26

---

27 <sup>2</sup>Pursuant to Ninth Circuit Rule 36-3, *Friedman*, 787 F. App'x 966 is not precedent,  
28 but may be cited by this Court. See FRAP 32.1 The Court accordingly cites *Friedman* not  
for its precedential value, but because the Court finds the Ninth Circuit's reasoning on a  
similar point of law persuasive.